

ORDINANCE NO. 08-

AN ORDINANCE AMENDING SECTION 9 OF CHAPTER 1 OF TITLE 12
GREENVILLE CITY CODE, RELATING TO FALSE ALARMS

THE CITY COUNCIL OF THE CITY OF GREENVILLE, NORTH CAROLINA, DOES
HEREBY ORDAIN:

Section 1. That Section 12-1-9(g) of the Code of Ordinances, City of Greenville, be
and is hereby amended by rewriting subsection (g) to read as follows:

(g) Enforcement of provisions.

(1) Responsibility for false alarms shall be borne by the alarm user.

(2) The following civil penalty shall be required for each false alarm per alarm
system within one permit year:

(a) First false alarm: no civil penalty;

(b) Second false alarm: \$25.00; however, if the alarm operator has a
valid alarm permit, then there is no civil penalty for the second false
alarm;

(c) Third and fourth false alarms: \$25.00 each;

(d) Fifth and sixth false alarms: \$50.00 each;

(d) Seventh and above false alarms: \$100.00 each;

(f) In addition to the foregoing fines, an additional civil penalty for false
alarms from a non-permitted alarm system is \$200.00. The additional civil
penalty will be waived if the alarm system is permitted within forty five
(45) days of the false alarm.

(3) For any violation of the provisions of this section other than a false alarm, a
violation shall be subject to a civil penalty in the amount of \$50.00.

(4) The city may offer an alarm awareness class to alarm users. Information on
the opportunity to attend an alarm awareness class will be provided to alarm users
after the first false alarm in a permit year.

(5) After responding to an alarm and determining that the alarm was false, the city shall leave written notice at the alarm site that there was a false alarm. The notice shall include the identity of the officer and time of response.

(6) The alarm user shall not be liable for a false alarm that occurs at an alarm site for which the alarm user has previously given a written disconnection notice to the alarm systems business or monitoring service.

(7) Payment of civil penalties. Civil penalties shall be paid within 30 days from the date of the citation. Violators shall be issued a written citation which must be paid within 30 days of the citation date. If not paid within the 30-day period, then an additional fifty dollars (\$50.00) delinquency charge shall be assessed for each 30-day period thereafter upon nonpayment until paid in full. The city attorney, or designee, is authorized to file suit on behalf of the city to collect any unpaid citations and any delinquency charge, and the chief of police, or his designee, is authorized to verify and sign complaints on behalf of the city in such suits. A police officer or other employee authorized by the city manager to enforce the false alarm ordinances may issue a citation for violations of this chapter. If litigation is required to recover the penalties and delinquency charges, the city attorney or designee in addition to the penalties and delinquency charges may recover reasonable attorneys' fees and other costs incurred in bringing the action and collecting the judgment.

(8) Equitable remedy. The city may enforce the provisions of this section by applying to a court of competent jurisdiction for an injunction, abatement order or any other appropriate equitable remedy.

(9) Noncriminal violation. A violation of any of the provisions of this section shall not constitute a misdemeanor or infraction punishable pursuant to G.S. 14-4.

Section 2. That Section 12-1-9(i) of the Code of Ordinances, City of Greenville, be and is hereby amended by rewriting subsection (i) to read as follows:

(i) Appeals.

(1) Assessments of civil penalties and other enforcement decisions made under this section may be appealed by filing a written notice of appeal with the alarm administrator within 20 days after the date of notification of the assessment of civil penalties or other enforcement decision (suspension or revocation). The failure to give notice of appeal within this time period shall constitute a waiver of the right to contest the assessment of penalties or other enforcement decision. Proper notification of the alarm administrator shall stay the imposition of a penalty, suspension or revocation until adjudication. The alarm administrator shall conduct an informal hearing and consider evidence presented by the alarm

user. Faulty or overly sensitive equipment, user error, or failure to renew the alarm permit shall not be sufficient basis to grant an appeal.

(2) If the alarm user is not satisfied with the ruling of the alarm administrator, then the alarm user may appeal to the alarm appeal board as constituted in accordance with the provisions of subsection (4). The request for an appeal to the alarm appeal board must be provided to the alarm administrator, on a form provided by the city, within 20 days from the date of the alarm administrator's ruling. Proper notification shall stay the imposition of a penalty, suspension or revocation until adjudication. The alarm appeal board shall conduct a hearing and consider evidence presented by the alarm user and by other interested persons. Faulty or overly sensitive equipment, user error, or failure to renew the alarm permit shall not be sufficient basis to grant an appeal. The alarm appeal board shall make a decision based on the preponderance of the evidence standard, and provide a decision within 30 days. The decision of the alarm appeal board is the final administrative remedy as to the city.

(3) Appeal standard. The alarm appeal board shall review an appeal from the assessment of civil penalties or other enforcement decisions using a preponderance of the evidence standard. Notwithstanding a determination that the preponderance of the evidence supports the assessment of civil penalties or other enforcement decision, the alarm appeal board shall have the discretion to dismiss or reduce civil penalties or reverse any other enforcement decision where warranted.

(4) The alarm appeal board shall be constituted of three (3) members who shall be a member of the police department designated by the chief of police, a person associated with an alarm system business designated by the city manager from nominations received from alarm system businesses, and a person designated by the city manager from nominations received by the Neighborhood Advisory Council. In the event nominations are not received from the alarm system businesses or the Neighborhood Advisory Council or the city manager determines to not designate a member from the nominations received, the city manager shall designate a person to serve on the alarm appeal board until a nomination is received by the city manager and the person is designated by the city manager as a member of the alarm appeal board. Members of the alarm appeal board will be designated for a term consisting of one (1) calendar year from January to December, members may serve unlimited consecutive terms, and a vacancy shall be filled for the unexpired term.

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4. Any part or provision of this ordinance found by a court of competent jurisdiction to be in violation of the Constitution or laws of the United States or North Carolina is

hereby deemed severable and shall not affect the validity of the remaining provisions of the ordinance.

Section 5. This ordinance will become effective _____, 2008.

This the _____ day of _____, 2008.

Patricia C. Dunn, Mayor

ATTEST:

Wanda T. Elks, City Clerk